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COMPLETING THE INTERNAL MARKET :
AN AREA WITHOUT INTERNAL FRONTIERS

THE PROGRESS REPORT REQUIRED
BY ARTICLE 8B OF THE TREATY

(presented by the Commission)

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THE PROGRESS REPORT REQUIRED BY ARTICLE 8B OF THE TREATY

INTRODUCTION

1. At the European Council at Hanover in June of this year, the Heads of Government declared that progress towards the Completion of the Internal Market, the major objective set out in the Single Act:

"has now reached the point where it is irreversible, a fact accepted by those engaged in economic and social life".

It is the bounden duty of all the institutions of the Community to ensure that this is in fact so, and continues to be so to the very point of success.

2. What is at stake is the future prosperity of Europe, the standard of living of its citizens and the employment of its people. If anyone ever doubted the immense benefits that the integration of the European Market could bring, the findings of the Cecchini Study "The European Challenge 1992: the Benefits of the Single Market" should dispel them. The prospect of a 5% growth in Community GNP, price reductions of 6% and 2 million new jobs. And if appropriate accompanying policies are adopted, a rise of 7% in GNP and 5 million new jobs, three years additional growth and a reduction of one third in the dole queues of Europe. What other policy could offer a tithe of this?

3. The completion of the Internal Market is also the foundation on which the other policies of the Community - as set out clearly and specifically in the Single Act - are based, namely cooperation in economic and monetary policy (economic and monetary union), social policy, economic and social cohesion, research and technological development, the environment, and European co-operation in the sphere of foreign policy.

In short, the completion of the Internal Market is not only the key to the Community's prosperity, it is the key to the Community's future. It is the key that will, and must, unlock the door.

4. It is not surprising that the policy has at long last caught the imagination of the people of Europe; not just the political leaders and the politicians, but the leaders and workers in industry and above all the ordinary men and women of Europe. We must not let them down. We must not disappoint their hopes and expectations.

5. The distinguishing marks of the Internal Market programme were first, as the Heads of Government recognised in Milan when the programme was first launched, that it was a "complete and effective" programme; and second, that it was set in a time frame. Both points are now enshrined in the Single European Act.

So far as the first is concerned, the Single Act defines the Internal Market as:

"an area without internal frontiers in which the freedom of movement of goods, persons, services and capital is ensured...".

So far as the second point is concerned, the Single Act says that all this is to be achieved:

"progressively over a period expiring on 31 December 1992".

6. The reason for setting the programme in a time frame was both to measure progress and impose discipline. To this end the Commission has published a regular annual progress Report. The Single Act takes up the same theme. It provides that:

"The Commission shall report to the Council before 31 December 1988 and again before 31 December 1990 on the progress made towards achieving the Internal Market within the time limit fixed in Article 8A" (viz by 31 December 1992)."

7. The date of 31 December 1988 marks the half-way point of the programme. It is therefore a crucially important point. The purpose of the Report is to enable the Council, on a proposal by the Commission, to ensure balanced progress in all the sectors concerned; but above all to take whatever measures may be needed to ensure the completion of the programme and its completion on time. Its importance can not be exaggerated. We have to maintain the confidence not only of ordinary people but also of industry. Industry is

beginning now to invest on the basis of a Europe wide market achieved by 1992. That investment will in itself provide a valuable stimulus to the European economy. We must ensure that the confidence of industry is not only sustained but reinforced.

PART I : OVERVIEW

A. THE POSITION GENERALLY

8. The original White Paper total of 300 proposals has been slightly whittled down to 279 by the elimination of a few proposals no longer required, and the grouping of others, partially offset by the addition of a small number of new proposals. The target set by the Commission last year, as a matter of internal administration, was that 90% of the proposals should be "tabled" by the end of the present year (31 December 1988). That target we expect to be met; and it will mean that by then the shape of Europe as it will be after 31 December 1992 will be clearly apparent virtually in all of its detail.

9. The Council has not done as well although progress is improving as the majority voting rules in the Single Act begin to bite. At present the Council has adopted one third of the total number of measures required; if one adds "common positions" - the stage of the co-operation procedure where the Council can be considered to have reached political agreement - the score rises to almost 40% (viz. 108 proposals out of 279). We would have hoped that by the year end the total, including common positions, might have reached 50%. But that figure looks unlikely to be achieved. This means that the Council has a great deal to do in the next two years. Although there are four years left before 31 December 1992, Member States must be given time to incorporate Community measures into national law to come into operation. Effectively this means that the Council must complete most of its work in the next two years.

That in turn will require a considerable acceleration in its striking rate. It is well to remember that the Council deals not only with White Paper measures but also measures not included in the 279. While these are important, and some e.g. those relating to the Customs Union can be said to have a bearing on the Internal Market, their inclusion in the total number of measures adopted by the Council can give a false impression of the rate of progress.

10. The co-operation procedure with the Parliament has in general worked well and the Parliament itself has played a helpful and constructive part. But two comments need to be made. First the Parliament has a "stock" of measures awaiting opinions. It is commendably reducing the back log,

and it is important that this should continue. Second, the co-operation procedure has itself certain defects that can only be overcome by constructive co-operation between the three institutions.

11. While, therefore, overall the positions can be regarded as satisfactory, progress remains patchy. In some areas it is very good; in others unacceptably poor. Comments on important individual areas appear below.

B. THE POSITION IN INDIVIDUAL AREAS

12. In some areas progress has indeed been good - particularly in relation to the removal of technical barriers to trade in goods and services and in the liberalization of capital movements. Indeed, of the Council's roughly 100 adoptions and common positions, some 70% relate to proposals linked to the technical barriers chapter of the White Paper. This progress can to a considerable extent be attributed to the carefully balanced mix of harmonisation, where essential requirements and basic rules are concerned, and mutual recognition where national legislation can be demonstrated to be directed to identical aims.

We can draw considerable satisfaction from the major advances made in several critical areas - advances which more than anything have given rise to the wide-spread feeling among economic quarters that the process is irreversible and that their planning and investment decisions must be based on the confident expectation that the programme will be completed on schedule. Details of progress in individual areas are to be found in Part II of this report, but it is worth highlighting here some of the major breakthroughs which have created the new momentum:

(a) As far as goods are concerned, the new approach to technical regulations and standards is in place and working. The major framework directives on pressure vessels, toys, construction materials and electromagnetic compatibility have been adopted or are close to adoption; and work is well advanced on the machine safety directive. Significant progress has also been made in food law;

(b) The service sector, previously the Cinderella of the Internal Market, is catching up fast. In the financial services in particular, important advances have been made or are ready to be made. For example, after years of immobility, the Council has at last

adopted the second (and far-reaching) non-life insurance directive. All the measures needed to create a European wide banking market have now been tabled (including the crucially important second banking coordination directive). Some have already been adopted. The rest are making good progress through the Council and the Parliament; on a less happy note, the Council has regrettably failed to adopt the Commission's proposal to liberalise audio-visual services, some Member States having preferred to divert valuable time and effort to seeking agreement on a Council of Europe Convention which could not in any sense be a substitute for a Community Directive;

(c) All the measures required for the complete liberalization of capital movements have also been adopted. The directive liberalizing long term capital movements is already in force. The directive liberalizing short term movements, down to and including bank accounts, has been adopted and generally comes into force in 1990; these directives need to be completed by measures, for which the Commission will soon be putting forward a proposal, in relation to fraud and tax avoidance;

(d) Work on public procurement, which accounts for such a significant proportion of economic activity in the Community, is now making good progress. Two new and important directives on public supplies and public works have been agreed in the Council; the excluded sectors proposals are on the Council table, as is the compliance directive; and the picture will be completed early in 1989 when the Commission tables its draft directive covering public procurement in the service sector;

(e) The directive providing for the mutual recognition of professional qualifications has every prospect of being adopted by the end of the year. At long last this will offer the citizens of Europe, with professional qualifications, opportunities to exercise their skills throughout the Community. The days when it took 18 years to reach agreement on a directive on architects or 16 on pharmacists are now a thing of the past.

(f) After a long period of stagnation, the past two years have seen very significant steps towards the establishing of a genuine Community market in transport services. Three measures stand out. In December 1986, the Council agreed to liberalize maritime transport between Member States and with third countries. In December 1987, the Council adopted an extensive package of measures introducing much greater market openness and competition into European air transport. And in

June 1988, the Council agreed on the total abolition by the end of 1992 of road haulage quotas within the Community.

13. In other areas, however, progress has been disappointing, in some instances to the point of raising real concern. This is true in the field of plant and animal health, where both Commission and Council alike have fallen behind; but especially so in the fiscal area and in the great range of matters relating to "Citizens' Europe", and particularly the freedom of movement of individuals.

14. The critical issue in the fiscal field is the harmonization or approximation of indirect taxation. There is simply no way that the objectives of the Single Act - particularly the removal of the internal frontiers and the controls which go with them - can be achieved without removing the fiscal reasons for frontier controls. This in turn requires a substantial measure of approximation of indirect taxation. That is the lesson of more than 30 years' experience and no one has at any time produced a viable or even plausible alternative. Despite the remit given by the European Council at Milan in June 1985, reinforced by the terms of the Single Act itself, there has been great reluctance on the part of the relevant Council to face up to the issues involved; much time has been wasted in going over the same ground again and again and in re-examining so-called alternatives which have repeatedly been rejected as often as not by the Member States themselves.

At long last some progress is being made but it is essential that this progress should not only be sustained but accelerated. Time is now very short and further delay will only make more difficult the problems to be confronted on 31 December 1992 when the internal frontiers have to go.

15. Progress on Citizens' Europe has been almost as disappointing. The one bright spot has been the Council's agreement on the directive on the mutual recognition of diplomas (professional qualifications). But elsewhere little has been achieved. The draft directive on facilitating frontier procedures for travellers has made no progress; nor has the directive on the right of residence. The problems presented by the need to find alternative and preferably more efficient means of dealing with arms, terrorism and drugs are substantial. Unfortunately Ministers dealing with these problems still seem to be wedded to their present inefficient frontier controls rather than actively seeking out new and better ways of confronting these issues. Intergovernmental co-operation has an immensely important

role to play in this area, particularly in providing the indispensable strengthening of the external frontiers. For all these reasons new instructions from the highest level and a fresh political impetus are essential. There are two points we must stress. There is a great volume of evidence that present controls are largely ineffective. What we are looking for are better controls and we believe they exist. Second the Commission has never said that frontier zones should be "no go" areas for the enforcement agencies. If evidence or reasonable suspicion exists, of course an individual can be stopped or apprehended. But what must go is the routine, mindless interference with the great mass of ordinary innocent travellers going about their legitimate business.

16. In order to meet the requirement of the Single Act that the Internal Market should be completed "in a period expiring on 31 December 1992", it is essential that the European Council should give the clearest possible direction to all the specialist Councils and Ministers involved that they must stop trying to re-open the past and must now bend their undivided attention to solving the problems and ensuring that the objectives of the Single Act are met, and met on time.

C. INSTITUTIONAL ISSUES AND THE DECISION-MAKING PROCESS

17. When they became aware at Milan in June 1985 of the breadth and time frame of the programme to complete the Internal Market, the Heads of State and Government concluded, on the Commission's recommendation, that the ambitious target set could only be met if institutional changes were made which would speed up the decision-making process. The Single European Act, which came into force last year, introduced important improvements both to the way in which the Council takes its decisions and the European Parliament exercises its powers. In particular the voting rules for certain key Treaty articles (notably Article 100, but also Articles 28, 57.2, 59, 70.1 and 84) were amended as a result of the Intergovernmental Conference in December 1985 to allow for qualified majority voting to replace the previous unanimity rule. The Commission, while welcoming these institutional changes, expressed its disappointment at the time that some potentially important gaps remained unfilled.

18. After a slow start, due in part to the inevitable delays involved in the introduction as part of the Co-operation Procedure of a second Parliamentary reading for a large number of Internal Market proposals, these decision-making

changes appear to be providing good results. Majority voting or the availability of such voting has produced a marked acceleration in the rate at which the necessary decisions are being taken. The Commission draws encouragement from experience so far that both the Council and the Parliament wish to put the possibilities provided by the Single Act to the best use. For its part, the Commission, helped considerably by the European Court's judgement on the "hormones" case, has applied as far as possible the principle of the single legal base for its proposals, in order to avoid the addition of articles requiring unanimity.

19. Against this generally positive background, two less satisfactory elements need to be mentioned:

(a) although the Council has demonstrated the good use to which it has put the new voting possibilities under Article 100A, there is little sign of greater flexibility in Council discussions of Commission Internal Market proposals based on articles requiring unanimity. This is particularly important in the fiscal field where, as pointed out in paragraph 14 above, there is a need for real progress;

(b) one of the major decisions taken at the Luxembourg Intergovernmental Conference which drew up the Single Act was that there was a need for greatly improved decision-making procedures especially when dealing with what were essentially management issues: and there was general agreement that this required greater delegation of powers to the Commission. Despite this, the Council has given virtually no practical effect to the declaration made by the Member States in relation to the Single European Act that they would "give the Advisory Committee procedure in particular a predominant place in the interests of speed and efficiency in the decision-making process, for the exercise of the powers of implementation conferred on the Commission within the field of Article 100A of the EEC Treaty." It has shown instead a general preference for formulae which maintain the possibility for national governments to block implementing decisions or even to ensure that decisions cannot be taken at all. In the food law sector, the Council even goes so far as to reserve implementing powers to itself. Furthermore, the extreme positions being adopted in the Council discussions of banking matters are putting progress in this vital sector at risk. The Commission cannot believe that Heads of State and governments would view this as being in conformity with the letter or the spirit of the Luxembourg Intergovernmental Conference.

D. THE EXTERNAL DIMENSION

20. As 1992 draws closer and the present momentum is increasingly seen to be irreversible, the external dimension of the programme to complete the Internal Market has aroused growing interest and, to some extent, anxiety. The anxiety has come from two opposite poles: on the one hand, fears have been expressed in some quarters within the Community that the main benefits of the completed Internal Market with its 320 million consumers will flow to powerful and well-prepared third country enterprises better equipped than their Community competitors to take advantage of the new opportunities. At the other extreme, certain of the Community's trading partners, without having any concrete evidence to support their fears, have voiced uneasiness that the completed Internal Market is bound to be accompanied by measures designed to exclude or at least disadvantage third country interests.

21. Since the Commission firmly believes that both these extreme views are both misguided and dangerous, it made its position clear on the matter on 19 October 1988. This position is based on the following key principles:

(a) The Internal Market will be beneficial both to European companies and to non-Community firms that will no longer have to deal with the national physical and technical frontiers it is to abolish. In addition, the economic growth expected from the completion of the Internal Market will have favourable economic consequences, both for the Community and for its trading partners. It will strengthen the Community's position as the world's leading trading power and as the one with the greatest stake in preserving and enhancing a liberal multilateral system;

(b) The Internal Market programme involves no weakening of the Community's commitment to respect its international obligations. Where international commitments, whether multilateral or bilateral, exist, they will be honoured. In sectors where no multilateral rules exist, the Community, making use of its powers at international level, will endeavour to reinforce and enhance the multilateral system. The Uruguay Round negotiations currently provide us with such an opportunity both to improve the existing arrangements and to introduce liberalizing measures in areas where no international rules yet exist; we would only hope

that our trading partners will take so clear and forthright a view of their international obligations;

(c) Pending implementation of the multilateral agreements under negotiation, it would be premature - in fields not yet subject to international obligations - for the Community automatically and unilaterally to extend to third countries the advantages of the internal moves towards liberalization. Those third countries, from whom it is reasonable to expect comparable liberalisation, will benefit to the extent that a reciprocal and mutual balance of advantages is attained in the spirit of GATT; in furtherance of this policy the Commission has written such provisions into its proposals for a 2nd Banking Coordination Directive and for a Directive extending the rules of public procurement to the hitherto excluded sectors;

(d) On a somewhat different subject completion of the internal market will require the removal or modification of a number of long standing national measures relating to imports which require the maintenance of internal border controls. The consequences of abolition where this is appropriate are now under examination in the various sectors concerned. Anyhow, the net result is bound to be a reduction in the current level of protective measures.

E. GENERAL MEASURES

22. Part II of this report gives details about the individual White Paper proposals and their progress.

It does not deal in depth with progress in the policy areas listed with the completion of the internal market in the Single Act. The President of the Commission may wish to cover this point at the European Council itself. It does, however, touch on some other areas, such as consumer protection and energy policy which, while not forming part of the internal market programme itself, nevertheless are related to it.

23. One general point does, however, need to be particularly stressed. It is not enough for the necessary measures to be adopted; they must also be transposed into national law, where appropriate, and fully implemented in the Member States. At the present stage, with few of the White Paper Directives yet in force, it is too early to express a

considered view on whether there are likely to be real problems of implementation ahead. However, the large number of cases the Commission has had to open against the Member States for non-respect of existing legislation and Treaty principles and the failure - in some cases on a very disturbing scale - of some Member States to implement Court judgements do not give cause for complacency. In the period ahead it will be up to the Commission to keep a strict check on the effective application of internal market measures, and to alert the political authorities if the objectives of the internal market are called into question when the commitments undertaken come to be implemented. The principle of mutual recognition between Member States implies a strengthened vigilance by the Commission of the actions of Member States. This responsibility will be in addition to that already exercised by the Commission in monitoring the application of the Treaty. Derogations need a special mention here. Article 8C of the Single Act allows for a limited use of derogations to provide certain Member States with some extra time to adapt to the pace of change. The Commission will remain sensitive to the thinking that gave rise to Article 8C and to other potentially difficult situations, while maintaining the general principle that derogations should be temporary and kept to a minimum.

OVERALL ASSESSMENT

24. As this report shows, there is cause for satisfaction and encouragement in what has been achieved in the three and a half years since the White Paper on the Completion of the Internal Market was presented to the Milan European Council in June 1985. We could not then have been confident that by now such an irreversible momentum would have been generated nor that the widespread feeling would have taken root both within and outside the Community that our far-reaching objective will be achieved - and achieved on time. But the report also shows that many difficult problems involving controversial areas remain to be solved. The Community cannot allow itself to duck these problems or be tempted to lower its ambitions by watering down the definition of an "area without internal frontiers". The Cecchini report makes it clear that to achieve the full economic benefits of the completed Internal Market frontier controls must be removed completely: any pretext for retaining a frontier control for a specific purpose, even if arguments could be advanced to support it if looked at in isolation, will preserve or create the machinery for interrupting the free flow of goods, services, capital and people which the Single Act commits us to achieving. Equally it will become increasingly difficult - in political terms - to explain to the citizens of Europe why such effort is being made to enable goods to move freely across frontiers while no such equivalent effort is made for people.

25. The large number of decisions that remain to be taken need to be taken within the next 2 years if Member States are to have time to transpose them into national law and make the necessary adjustments before the end of 1992. A further impulse is needed now. The European Council at Hanover already singled out a number of key sectors on which attention should focus. This report has identified three major areas on which new instructions and new attitudes are essential: fiscal matters; animal and plant health questions; and the free movement of people. And the time has also come for the European Council to give real meaning to its declaration at the time of the Luxembourg Intergovernmental Conference concerning the delegation to the Commission of greater and more efficient powers of execution.

THE PROSPECT AHEAD

26. The Single Act requires a further report in 1990 and provides a final opportunity for review in 1992 itself "to allow the Council to act before the end of 1992". That may be when the final - possibly even heroic - decisions have to be taken to ensure that the Internal Market is completed and completed on time. But we cannot wait until then. We must reaffirm our commitment now; we must build upon the Declaration at Hanover that "this major objective (of completing the Internal Market) has now reached the point where it is irreversible"; we must ensure that when the 1992 report is made it is a catalogue of achievement not a confession of failure; that we can stride confidently ahead into the new Europe which awaits us.

27. All the Community Institutions have their part to play in this unfolding drama: the Commission, the Parliament and the Council. It is vital that they all approach their task in a Community spirit, in a willingness to put the Community interest above their own national interests and above their institutional ambitions. The framework we have for action and achievement is far from perfect. It offers too many opportunities to the hesitant, the faint at heart and those who would pursue narrow interests and limited objectives.

